

KAZAKHSTAN

Items	Regulations in force on 1 January 2015
1: Notification procedures in the case of individual dismissal of a worker with a regular contract	<p>Personal reasons: the employer must give the employee a written notice. Dismissal of employees who are members of a trade union is possible only with consideration of the opinion of the elected trade union authorities.</p> <p>Redundancy: The employer must give the employee a written notice. Dismissal of employees who are members of a trade union is possible only with consideration of the opinion of the elected trade union authorities. The employer has also to inform the labour administration about any expected staff reductions at least 2 months in advance – art. 9, Law on Employment, 2001.</p> <p>Dismissal for personal reasons and redundancy of workers aged 55 years or more must be authorised by an ad-hoc joint employer-employee commission, created on purpose (Art. 56 Labour Code – LC hereafter).</p> <p>Calculation for EPL indicators: Average of workers above (2.5) and below (2) the threshold age</p>
2: Delay involved before notice can start	<p>There is no indication in the labour code of the time required for consultations with unions and to form the joint commission to dismiss older workers</p>
3: Length of notice period at different tenure durations (a)	<p>1 month regardless on length of service (Art. 56 LC)</p> <p>However, the administration must be informed at least 2 months in advance in the case of redundancy.</p>
4: Severance pay at different tenure durations (a)	<p>In the case of dismissal in connection with liquidation of the organisation or reducing the number of permanent staff, the employee to be dismissed is entitled to severance payment equal to one average monthly wage (Art. 157 LC).</p> <p>No severance pay for personal reasons</p> <p>Calculation for EPL indicators: average of personal reasons and redundancy $(0+1)/2= 0.5$ months</p>
5: Definition of unfair dismissal (b)	<p>Fair (art. 54 and 56, LC):</p> <p>Redundancy: dismissal in the case of redundancy is possible provided that the employer takes measures to transfer the employee to another job with his (her) consent.</p> <p>Personal reasons: Termination of the labour contract by the employer for reasons of unsuitability of the employee for the held position or work due to the insufficient qualifications shall be based on the decision of the certification committee, in which a representative of the employees should participate, unless otherwise provided by the laws of the Republic of Kazakhstan. Procedures, conditions and periodicity of certification of employees are determined by the collective contract and in the case of its absence by the act of the employer, issued in consultation with the employees' representatives. An employee can also be fired for permanent, health-related inability to work if it is medically attested. The employer, before dismissal, shall also take measures to transfer the employee to another job with his (her) consent.</p>
6: Length of trial period (c)	<p>Article 36 LC</p> <p>No more than 3 month</p>
7: Compensation following unfair dismissal (d)	<p>Article 177 LC</p> <p>The employee shall be paid all wages between the date of dismissal and the date of reinstatement (or resolution of the contract at the demand of the employee), with a ceiling of six monthly wages.</p>
8: Reinstatement option for the employee following unfair dismissal (b)	<p>Article 177 LC</p> <p>Reinstatement is always made available to the employee in the case of unfair dismissal</p>
9: Maximum time period after dismissal up to which an unfair dismissal claim can be made (e)	<p>Article 172 LC</p> <p>The period of time set to appeal the authorities to consider individual labour disputes for reinstatement is three months from the date of delivery of a copy of the act with which the employer terminate the employment contract.</p> <p>Calculation for EPL indicators: 3 months minus individual notice period</p>

10: Valid cases for use of standard fixed term contracts	Article 29 LC No limitation.
11: Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	Article 29 LC In the case of renewal or extension of a fixed-term labour contract, that labour contract is considered for an indefinite period.
12: Maximum cumulated duration of successive standard FTCs	Article 29 LC There is no maximum duration. Minimum duration is one year. Exclusion: for the time to fulfil definite work; for the replacement of absent employee; for the fulfilling seasonal work.
13: Types of work for which temporary work agency (TWA) employment is legal	No legislation regulating TWAs
14: Are there restrictions on the number of renewals and/or prolongations of TWA assignments? (f)	Not available
15: Maximum cumulated duration of TWA assignments (f)	Not available
16: Does the set-up of a TWA require authorisation or reporting obligations?	Not available
17: Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	Not available
18: Definition of collective dismissal (b)	No definition of (or procedure for) collective dismissal, except those required for any type of redundancy
19: Additional notification requirements in cases of collective dismissal (g)	Not applicable
20: Additional delays involved in cases of collective dismissal (h)	Not applicable
21: Other special costs to employers in case of collective dismissals (i)	Not applicable

Legend: d: days; w: weeks; m: months; y: years. For example "1m < 3y" means "1 month of notice (or severance) pay is required when length of service is below 3 years".

Notes:

a) Three tenure durations (9 months, 4 years, 20 years). Case of a regular employee with tenure beyond any trial period, dismissed on personal grounds or economic redundancy, but without fault (where relevant, calculations of scores to compute OECD EPL indicators assume that the worker was 35 years old at the start of employment). Averages are taken where different situations apply – e.g. blue collar and white collar; dismissals for personal reasons and for redundancy.

b) Based also on case law, if court practice tends to be more (or less) restrictive than what specified in legislation.

c) Initial period within which regular contracts are not fully covered by employment protection provisions and unfair dismissal claims cannot usually be made.

d) Typical compensation at 20 years of tenure, including back pay and other compensation (e.g. for future lost earnings in lieu of reinstatement or psychological injury), but excluding ordinary severance pay and pay in lieu of notice. Where relevant, calculations of scores to compute OECD EPL indicators assume that the worker was 35 years old at the start of employment and that a court case takes 6 months on average. Description based also on case law.

e) Maximum time period after dismissal up to which an unfair dismissal claim can be made.

f) Description based on both regulations on number and duration of the contract(s) between the temporary work agency and the employee and regulations on the number and duration of the assignment(s) with the same user firm.

g) Notification requirements to works councils (or employee representatives), and to government authorities such as public employment offices. Only requirements on top of those requirements applying to individual redundancy dismissal count for the OECD EPL indicators (cf. Item 1).

h) Additional delays and notice periods in the case of collective dismissal (only delays on top of those required for individual dismissals – as reported in Items 2 and 3 – count for the OECD EPL indicators).

i) This refers to whether there are additional severance pay requirements and whether social compensation plans (detailing measures of reemployment, retraining, outplacement, etc.) are obligatory or common practice.